

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 843-720-5270

463 KING STREET, SUITE B
CHARLESTON, SC 29403-7204

Facsimile 843-414-7039

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VIA FOIAonline (foiaonline.regulations.gov) and U.S. Mail

Regional Freedom of Information Officer
U.S. EPA, Region 4
AFC Bldg, 61 Forsyth Street., S.W., 9th Flr (4PM/IF)
Atlanta, GA 30303-8960

Re: Freedom of Information Act Request and Fee Waiver Request re: Clean Water Act Permit for I-73 in South Carolina

Dear Sir or Madam:

Under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, the South Carolina Coastal Conservation League ("CCL"), a non-profit organization, and the Southern Environmental Law Center ("SELC"), a 501(c)(3) non-profit organization, request the following information:

- All documents relating to EPA's review of the proposed Interstate 73 in South Carolina from January of 2011 to the present, including but not limited to correspondence with the U.S. Army Corps of Engineers ("Corps") regarding its issuance of a Section 404 permit for this project.

For the purposes of this request, the term "documents" includes all written, printed, recorded or electronic: materials, communications, correspondence, emails, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of the Environmental Protection Agency. Please note that we do not need copies of publicly available NEPA or permitting documents such as draft and final EISs, draft JPNs or the final CWA permit issued in 2017 as these documents can be found on the FHWA website at <http://www.i73insc.com/>.

FOIA directs a responding agency to make a "determination" on any request within twenty (20) working days of receipt. See 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(a)(8)(A). Should our requests be denied, we request that you inform us of the grounds for denial and the specific administrative appeal rights which are available. See 5 U.S.C. § 552(a)(6)(A)(i).

SELC and CCL are requesting photocopies without charge, or at a reduced charge, because reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be "liberally construed" in favor of

waivers. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987); *Pederson v. Resolution Trust Corp.*, 847 F. Supp. 851, 855 (D.Colo.1994); *Etlinger v. FBI*, 596 F. Supp 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the "roadblocks and technicalities which have been used by various Federal agencies to deny waivers...." *Pederson*, 847 F. Supp. at 855.

SELC is a 501(c)(3) non-profit organization with over 25 years of experience disseminating public information regarding EPA regulatory and oversight issues. See 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. Lawyers at SELC are interviewed by the media to explain their work and its significance. SELC's website contains documents generated by SELC for the specific purpose of educating the public on particular issues. SELC also speaks at conferences on particular topics. SELC also assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites.

The Coastal Conservation League is a 501(c)(3) non-profit organization working to protect the natural resources of the South Carolina coastal plain and, specifically, to gather, analyze, and disseminate public information about major development projects, such as the project, and the impacts of such projects on wetlands, wildlife, water quality, and other resources in South Carolina.


The particular topic of this FOIA request concerns EPA's obligation to review and approve any Clean Water Act permit issued for I-73 in South Carolina. SELC and CCL have been extensively involved in commenting on the environmental review process for this project and otherwise disseminating information to the public and numerous state and federal agencies about costs, benefits, and alternatives concerning the project for over ten years. SELC and CCL have routinely disseminated information to members of the public on I-73 as part of a media campaign to educate the public on this proposal.

A fee waiver clearly will benefit the general public through increased notice and understanding of the operations of the government. SELC and CCL further certify that disclosure of the information sought is not in our commercial interest.

Should SELC and CCL's request for reduced or waived fees be denied, SELC and CCL are prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$100.00. We reserve the right to appeal a fee waiver or reduction denial.

If you have any questions regarding this request, please feel free to contact me at 843-619-4619. I appreciate your prompt attention to this matter and look forward to receiving the public records requested.

Sincerely,



Catherine Wannamaker
Senior Attorney
SELC

cc: Lisa Jones Turansky